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February 13, 2004

Colleen Ryan, Supervisor  
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Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

Re: Docket No. E-01345A-<sup>03</sup>02-0437

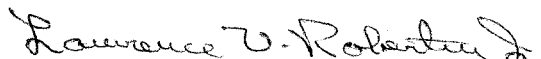
In the matter of the Arizona Public Service Company's Application to determine fair value, fix rate of return, determine rates, and approve purchase power contract.

Dear Ms. Ryan:

Enclosed for filing in the above-captioned proceeding are the original and thirteen (13) copies of the Mesquite Power, L.L.C.'s Response to Motion to Amend Rate Case Procedural Order. Also enclosed are two additional copies to be conformed and returned to our office in the self-addressed stamped envelope.

Please let me know if you have any questions, and thank you for your assistance.

Sincerely,

  
Lawrence V. Robertson, Jr.

enclosures

Arizona Corporation Commission

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COMMISSIONERS

MARC SPITZER, Chairman  
JIM IRVIN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON

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AZ CORP COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE APPLICATION  
OF ARIZONA PUBLIC SERVICE  
COMPANY FOR A HEARING TO  
DETERMINE THE FAIR VALUE OF THE  
UTILITY PROPERTY OF THE COMPANY  
FOR RATEMAKING PURPOSES, TO FIX A  
JUST AND REASONABLE RATE OF  
RETURN THEREON, TO APPROVE RATE  
SCHEDULES DESIGNED TO DEVELOP  
SUCH RETURN, AND FOR APPROVAL OF  
PURCHASED POWER CONTRACT

DOCKET NO. E-01345A-03-0437

**RESPONSE TO MOTION TO  
AMEND RATE CASE  
PROCEDURAL ORDER**

Mesquite Power, L.L.C. and Southwestern Power Group II, L.L.C. (Collectively  
"Mesquite/ SWPG") hereby respond to Arizona Public Service Company's ("APS") February 6,  
2004 Motion to Amend Rate Case Procedural Order ("Motion").

In the Motion, APS indicates that it is seeking the proposed three-week extension of all  
procedural dates in order that it may

"... fully and completely address the additional evidentiary issues  
that have arisen since the original June 2003 filing." [Motion at  
page 6, lines 18-20] [emphasis added]

Elsewhere in the Motion, APS identifies those "additional" or "new issues" as issues which  
have been raised in the direct case testimony filed by the Commission's Utilities Division Staff  
and the Residential Utility Consumer Office [Motion at page 2, line 15-page 3, line 6 and page 3,

Arizona Corporation Commission

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1  
2 line 16 - page 5, line 2]; and the Chief Administrative Law Judge's December 19, 2003  
3 Procedural Order which added the "preliminary inquiry" to this docket [Motion at page 5, lines  
4 14-18]. In this regard, APS expressly states that the issue of rate-basing the PWEC assets is not  
5 the basis for its motion.

6 "Rather, it [i.e. the basis] is the magnitude and unexpectedly  
7 extreme nature of many of the other adjustments proposed in the  
8 testimony that warrant the additional time sought by the  
9 Company's Motion." [Motion at page 3, lines 11-16]

10 Against this background, Mesquite/ SWPG do not have any objection to the three-week  
11 extension of procedural dates requested by APS. However, they reserve the right to file a  
12 request for a further extension of the date for filing intervenor surrebuttal testimony, in the event  
13 that APS should raise new issues relating to the rate-basing of the PWEC assets as a part of its  
14 rebuttal testimony. In such event, Mesquite/ SWPG would probably recommend as members of  
15 the Arizona Power Competitive Alliance ("Alliance") that the Alliance file such a request.

16 Dated: February 13<sup>TH</sup>, 2004.

17  
18 Respectfully submitted,

19  
20 By: Lawrence V. Robertson, Jr.  
21 Lawrence V. Robertson, Jr.  
MUNGER CHADWICK, P.L.C.

22 Attorneys for Mesquite Power, L.L.C. and  
23 Southwestern Power Group II, L.L.C.  
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Original and 13 copies of  
the foregoing mailed this 13  
day of February, 2004 to:

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Copies of the foregoing mailed,  
faxed or transmitted electronically  
this 13 day of February, 2004 to:

All parties of record